

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

I. L. Sharfman, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: "... for and in behalf of J. S. Thomas who is now and for a number of years past has been employed as a porter by the Pullman Company operating out of the District of Kansas City, Missouri, because the Pullman Company did under date of August 21, 1939 penalize Porter Thomas with a twenty days' actual suspension on charges which were unproved.

"And further, because Porter Thomas did not have a fair and impartial hearing for the following reasons:

"1. That the evidence presented against Porter Thomas in the hearing held in this case on August 11, 1939 was hearsay and secondary and that the Management of the Pullman Company refused to produce the persons whose statements were used as evidence against Porter Thomas and denied the request and demand of the representative of Porter Thomas that these individuals be produced in order that Porter Thomas might be confronted with them and have an opportunity to question and examine them as to the subject matter of the statements presented as evidence against Porter Thomas in this hearing;

"2. That the penalty of twenty days' actual suspension meted out to Porter Thomas was based upon charges additional to the ones made in the instant case and upon which Porter Thomas had previously been penalized, thus subjecting him to a double penalty.

"And further, for the record of Porter Thomas to be cleared of the charges made against him and for Porter Thomas to be paid for the twenty days lost by virtue of the disciplinary action taken."

EMPLOYEES' STATEMENT OF FACTS: "Your petitioner, the Brotherhood of Sleeping Car Porters, respectfully submits that it is the duly designated and authorized representative of all porters, maids and attendants in the employ of the Pullman Company for all purposes provided for under the provisions of the Railway Labor Act.

"Your petitioner further represents that in such capacity it is duly authorized to represent J. S. Thomas who is now and for a number of years has been employed as a porter by the Pullman company operating out of the District of Kansas City, Missouri.

"Your petitioner further submits that on or about the twenty-first of May, 1939 Porter Thomas was called into the office of Superintendent Fitzgerald of the Kansas City, Missouri District and interviewed in regard to

and unconvincing defense. Had the petitioner any case to present in behalf of Porter Thomas, no personal attack would have been made on the integrity of the employees under whom Thomas worked.

"The discipline administered Thomas is fully supported by the evidence. His claim should be denied." (Exhibits not included.)

OPINION OF BOARD: The record discloses no violation of the requirements of the Agreement bearing upon discipline. The employe was not disciplined without a hearing, and he was notified in writing of the time and place of the hearing and of the specific charges preferred against him. At the hearing both the employe and his representatives were given ample opportunity to present any facts or arguments pertinent to the charges. There are no rules specifying the types of evidence that must be submitted at the hearing, and the evidence adduced by the carrier under the circumstances of this case was not such as to detract from the fairness or impartiality of the hearing. Since there was no violation of the Agreement and no abuse of discretion on the part of the carrier, no basis has been established for the relief sought in this proceeding.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon and upon the whole record and all the evidence, finds and holds:

That the carrier and the employe involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the facts of record disclose no adequate grounds for disturbing the disciplinary action of the carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 19th day of July, 1940.